

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Improving Public Safety Communications in the 800 MHz Band)	WT Docket No. 02-55
)	
)	
Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels)	
)	
Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems)	ET Docket No. 00-258
)	
)	
Petition for Rule Making of the Wireless Information Networks Forum Concerning the Unlicensed Personal Communications Service)	RM-9498
)	
)	
Petition for Rule Making of UT Starcom, Inc., Concerning the Unlicensed Personal Communications Service)	RM-10024
)	
)	
Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for use by the Mobile Satellite Service)	ET Docket No. 95-18
)	

**OPPOSITION TO THE MOTION FOR REMOVAL OF BEARINGPOINT
AND CESSATION OF THE TRANSITION PROCESS**

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February 17, 2005

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SUMMARY

The Movants ask the Commission to remove BearingPoint from the TA on the grounds that: (1) BearingPoint's disclosure to the Transition Administrator Search Committee ("Search Committee") regarding its commercial relationship with Nextel was "deceptive in the extreme" and (2) BearingPoint's commercial relationship with Nextel precludes the TA from being able to meet its obligation to act independently. Neither of these claims has merit.

Bearingpoint Fully Complied With the Disclosure Requirements Established by the Commission and the Search Committee

BearingPoint complied fully with the disclosure requirements specified by the Commission and the Search Committee. In the Statement of Interest submitted to the Search Committee, BearingPoint disclosed its ongoing commercial relationship with Nextel. Specifically, BearingPoint told the Search Committee that it: (1) "has current commercial contracts with Nextel"; (2) was providing "ongoing" support for several of Nextel's "enterprise projects"; and (3) had "recently submitted a proposal to be considered a Nextel prime vendor" that would provide services to Nextel "over a period of years."

As Required by the Commission, the Transition Administrator Will be a Fully "Independent Party"

Since their appointment, the three firms have taken significant actions to fulfill their commitment to ensure that the TA is – and appears to be – fully independent.

Establishment of a Separate Legal Entity. On December 27, 2004, BearingPoint formed a limited liability company, called 800 MHz Transition Administrator, LLC ("TA LLC"). BearingPoint, Squire Sanders, and Baseline have agreed that they will carry out the responsibilities of the TA through this legally separate entity.

The Nextel Special Implementation Plan. One month later, on January 24, 2005, the TA filed with the Commission a copy of the BearingPoint Special Implementation Plan-Nextel (“Nextel SIP”). The Nextel SIP describes the means by which BearingPoint will “maintain appropriate separation between BearingPoint TA project team members and BearingPoint’s Nextel Commercial account interests.” In developing the Nextel SIP, BearingPoint used a variety of structures and procedures that various U.S. Government agencies previously have found to be effective in avoiding conflicts of interest. In particular, BearingPoint will create a “firewall” to “segregate BearingPoint’s TA Project Team from BearingPoint’s commercial account relationships with Nextel.”

The Independence Management Plan. The TA has adopted an Independence Management Plan (“Plan”), which contains a number of provisions designed to maintain “the independence of the TA” and to address “any perceived or actual conflicts of interest that may arise in connection with the TA’s performance of its duties.”

The Independence Management Plan provides that TA LLC “shall be separate from all of the TA Members.” Specifically, TA LLC is to have “separate books, records and accounts separate and apart from the books, records and accounts of the TA Members.” In addition, TA LLC “will establish office space that is segregated from other office space of BearingPoint or any other TA Member” and will have “separate electronic files and a separate website.” The Plan also contains provisions designed to ensure confidentiality.

The Independence Management Plan also provides that any party that is in “any mediation or other dispute resolution proceeding conducted by the TA” will be deemed to be an Engaged Stakeholder. If BearingPoint of Baseline has a commercial relationship with an Engaged Stakeholder, or had such a relationship within the last 12 months, it must adopt a

Special Implementation Plan (“SIP”). Squire Sanders will adopt a SIP if it has a conflict under the applicable ethical rules. The SIP describes “the safeguards and protections [that] the TA Member will implement to ensure the independence of TA decisionmaking.” Such safeguards may include: (1) recusal from decisionmaking involving the Engaged Stakeholder; (2) the establishment of “ethical walls” or “firewalls” that will insulate the TA Team from contact with any TA Member company personnel that has a commercial relationship with an Engaged Stakeholder; and (3) disclosure of the relationship to the Commission.

Code of Conduct. Pursuant to the Plan, the TA has adopted a Code of Conduct (“Code”). The Code provides that “All TA Members and their personnel shall act to achieve and maintain, and shall refrain from acting to impair or prevent, the appearance and the reality of the integrity, independence, and impartiality of the TA in its decisionmaking and other actions.”

The Teaming Agreement. BearingPoint, Squire Sanders, and Baseline are currently finalizing their Teaming Agreement. The parties have agreed to a comprehensive set of “checks and balance.” Numerous decisions will be made, reviewed, and/or approved by the TA’s General Counsel, a role that will be performed by Squire Sanders. For example, as General Counsel, Squire Sanders will have authority to review and approve any SIP developed by either BearingPoint or Baseline.

Conclusion

The Commission has previously recognized that any delay in the transition process would result in “palpable – even life-threatening – harm to both public safety agencies and to the public.” The Movants have provided no basis on which the Commission should replace BearingPoint and thereby delay the reconfiguration process.

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**OPPOSITION TO THE MOTION FOR REMOVAL OF BEARINGPOINT
AND CESSATION OF THE TRANSITION PROCESS**

The 800 MHz Transition Administrator ("TA"), pursuant to Section 1.46(b) of the Commission's Rules, 47 U.S.C. § 1.46(b), hereby opposes the Removal Motion filed by Mobile Relay Associates and Skitronics, LLC ("Movants") in the above-captioned proceeding.¹ The Movants ask the Commission to remove BearingPoint from the TA on the grounds that: (1) BearingPoint's disclosure to the Transition Administrator Search Committee ("Search Committee") regarding its commercial relationship with Nextel was "deceptive in the extreme"

¹ See Emergency Motion for Removal of BearingPoint, Inc. from Transition Administrator Team and Cessation of Transition Process Pending Announcement of a Replacement Administrator, WT Docket No. 02-55 (filed Feb. 7, 2005) ("Removal Motion" or "Motion").

and (2) BearingPoint's commercial relationship with Nextel precludes the TA from being able to meet its obligation to act independently. As demonstrated below, neither of these claims has merit. To the contrary, during the course of the selection process, Bearingpoint complied fully with the disclosure requirements established by the Commission and the Search Committee. Since its establishment, the TA has taken significant and effective actions to ensure its independence. This includes: establishment of a legally separate entity, approval of the Nextel Special Implementation Plan, and adoption of the TA Independence Management Plan and Code of Conduct.

I. BEARINGPOINT FULLY COMPLIED WITH THE DISCLOSURE REQUIREMENTS ESTABLISHED BY THE COMMISSION AND THE SEARCH COMMITTEE

The Movants claim that BearingPoint should be removed from the TA because the disclosure that it made to the Search Committee regarding its commercial relationship with Nextel was "deceptive in the extreme."² In fact, BearingPoint complied fully with the disclosure requirements specified by the Commission and the Search Committee.

On September 10, 2004, the Search Committee released a Request for Statements of Interest ("Request"). In its Request, the Search Committee specified the information that interested parties were to provide. In particular, the Search Committee stated that "Statement of Interest should . . . contain a certification that the submitting party has no direct financial interest in any 800 MHz licensee. Statements of Interest should also provide full disclosure of any perceived potential conflicts of interest or perceived conflicts of interest."³ The Search

² *Id.* at 5.

³ Search Committee, Request for Statement of Interest, at 2 (Sept. 10, 2004).

Committee added that, once it had reviewed the statements of interest, it would “seek additional information from qualified candidates.”⁴

Two weeks later, on September 24, 2004, a consortium – consisting of BearingPoint, Inc. (“BearingPoint”), Squire, Sanders & Dempsey L.L.P (“Squire Sanders”), and Baseline Telecom, Inc. (“Baseline”) – submitted a Statement of Interest to the Search Committee. As required by the Commission, each of the three firms provided a signed certification that it has “no financial interest in any 800 MHz licensee.” The Movants do not question that these certifications are correct.

As part of the Statement, BearingPoint disclosed its relationship with Nextel. Specifically, BearingPoint told the Search Committee that it: (1) “has current commercial contracts with Nextel”; (2) was providing “ongoing” support for several of Nextel’s “enterprise projects”; and (3) had “recently submitted a proposal to be considered a Nextel prime vendor” that would provide services to Nextel “over a period of years.” BearingPoint went on to note that it was “under a confidentiality agreement with respect to the details of its work for Nextel.” However, BearingPoint explained that its relationship with Nextel does “not involve any work with respect to 800 MHz networks.” BearingPoint’s disclosure is included as Attachment 1. Each statement made by BearingPoint is demonstrably correct. In particular, contrary to Movant’s assertion,⁵ BearingPoint had a contractual obligation – which dated back to April 2001

⁴ *Id.* at 3.

⁵ *See* Motion at 8 (“It is highly unlikely that any contract between Nextel and BearingPoint would have prohibited disclosure of the dollars involved”); *id.* at 8 n.8 (“[T]here never was any prohibition on their release”).

– to preserve confidential information regarding its relationship with Nextel, including the size of fees paid.⁶

Representatives of BearingPoint, Squire Sanders, and Baseline met with the Search Committee on October 4, 2004. Representatives of the three firms responded to all questions posed by the Search Committee.

One week later, on October 12, 2004, the Search Committee informed the Commission that it had selected the BearingPoint-Squire Sanders-Baseline Team, “subject to Commission approval of a contract to be negotiated between Nextel and the BearingPoint team regarding hourly rates and other necessary terms and conditions.”⁷ The Search Committee stated that, in making its decision, it had reviewed the Certification of Independence and No Financial Interest filed by each of the three firms, and conducted “additional discussions with Team representatives.”⁸ The Search Committee further informed the Commission that it had “not discovered any area of concern relating to the independence or financial interests of the firms that make up the Team.”⁹ The Search Committee therefore concluded that, “based on the disclosures” made by each of the firms, it had determined that “the Team can serve as an independent Transition Administrator.”¹⁰ The Search Committee added that it believed that “the BearingPoint Team will be independent, impartial and will remain free of any potential conflict

⁶ See Affidavit of Brett Haan (“Haan Affidavit”) ¶ 6 (included herein as Attachment 2). Mr. Haan is a Director in BearingPoint, with personal knowledge of all relevant events.

⁷ Letter from Robert Gurss *et al.* to Michael Wilhelm, Chief, Public Safety & Critical Infrastructure Industry Division, Wireless Telecommunications Bureau, Federal Communications Commission (Oct 12, 2004) (“Search Committee Letter”).

⁸ *Id.* at 6.

⁹ *Id.*

¹⁰ *Id.*

with regard to this undertaking.”¹¹ The Search Committee attached copies of the three firms’ disclosure statements to the letter that it sent to the FCC. A copy of the Search Committee Letter is included as Attachment 3.

Two weeks after receiving the Search Committee’s letter, on October 29, 2004, the Wireless Telecommunications Bureau, acting on delegated authority, issued a public notice stating that it “concur[ed] with the Search Committee’s Search of the Transition Administration Team.”¹²

These facts make clear that BearingPoint fully disclosed that it had an ongoing relationship with Nextel.¹³ Therefore, there is no basis for the Commission to disqualify Bearingpoint on the grounds that it failed to fulfill the disclosure requirements established by the Commission and the Search Committee.

II. AS REQUIRED BY THE COMMISSION, THE TRANSITION ADMINISTRATOR WILL BE A FULLY “INDEPENDENT PARTY”

The Commission’s Rules require the Transition Administrator to be “an independent party.”¹⁴ Rather than relying on the Commission’s Rules, however, the Movants claim that the Commission must disqualify BearingPoint because its appointment violates “Canon 4 of the

¹¹ *Id.*

¹² Public Notice, “Wireless Telecommunications Bureau Concurs With Search Committee Selection of a Transition Administrator,” DA-04-3492 (Oct 29, 2004).

¹³ Contrary to the Movants’ contention, Nextel “is not a larger customer of BearingPoint now than it was before the Transition Administrator selection process was completed.” Motion at 7. As Mr. Haan’s affidavit makes clear, during the course of the selection process, Nextel rejected BearingPoint’s application to become a “prime” vendor. Haan Aff. ¶ 7. “Nextel today accounts for an even smaller percentage of BearingPoint’s revenues that it did on the date of the filing” of the Statement of Interest. *Id.* ¶ 10.

¹⁴ 47 C.F.R. § 90.676.

American Bar Association’s Model Code of Judicial Conduct.¹⁵ Movants therefore completely disregard the significant actions that the TA – and its three Members – have undertaken in order to ensure the TA’s independence.¹⁶

A. The Model Code of Judicial Conduct is Not Applicable

The Movants claim that “the Transition Administrator serves in a quasi-judicial role as equivalent to a special master in a judicial proceeding.”¹⁷ Therefore, Movants insist, the American Bar Association’s Model Code of Judicial Conduct is “applicable” to the TA.¹⁸ This is simply wrong. The Commission did not appoint the TA to act as a special master. Rather, the Commission explained that:

The Transition Administrator will serve both a ministerial role and a function *similar to* a special master. In the later role, the Transition Administrator may mediate any disputes that may arise in the course of band reconfiguration; or refer the parties to alternative dispute resolution¹⁹

The Commission plainly did not intend to require members of the TA to satisfy the standards in the Code of Judicial Conduct. If the Commission had intended to do so, it would have precluded firms that have *any* ongoing business relationship with any interested party from serving in the TA. Neither the Commission nor the Search Committee ever imposed such a

¹⁵ Motion at 9; *see id* at 5 n.5 (The TA will function “as does” a special master). Canon 4 of the Model Code prohibits judges from having a “continuing business relationship” with any person who is likely to appear before them. American Bar Association Model Code of Judicial Conduct, Code Canon 4D(1).

¹⁶ *See id.* (“Because the Model Rules apply, the significant actions taken to ensure the TA’s independence are “futile and besides the point.”).

¹⁷ Motion at 9.

¹⁸ *Id.*

¹⁹ Improving Public Safety Communications in the 800 MHz Band, Report and Order, 19 FCC Rcd 14969, 14970 (2004) (“Order”) (emphasis added).

requirement. Indeed, as a result of BearingPoint's disclosure, both the Search Committee and the Commission were fully aware that BearingPoint had an on-going commercial relationship with Nextel. Nonetheless, the Search Committee concluded that the BearingPoint-Squire Sanders-Baseline Team had the ability to "serve as an independent Transition Administrator."²⁰ The Commission, which was given a copy of BearingPoint's disclosure statement, concurred in the Search Committee's decision.

To the extent that the standards governing special masters have any relevance, it is only when the TA is "mediat[ing] any disputes that may arise in the course of band reconfiguration."²¹ BearingPoint will not participate in the alternative dispute resolution ("ADR") process. Rather, the ADR function will be designed, implemented, and managed by Squire Sanders. The Movants expressly state that they "have no quarrel with the continued participation" of Squire Sanders "in the office of Transition Administrator."²²

B. The TA, and Its Three Members, Have Taken Significant and Effective Action to Ensure the TA's Independence

The question before the Commission is straightforward: Has anything happened since October 12, 2004 (the day on which the Search Committee selected the BearingPoint Team) that provides a basis to reverse the Search Committee's determination that the BearingPoint-Squire Sanders-Baseline Team "can serve as an independent Transition Administrator"? The answer plainly is "no." To the contrary, since their appointment, the three firms have taken significant

²⁰ Search Committee Letter at 6.

²¹ Order at 14971.

²² Motion at 5 n.6.

actions to fulfill their commitment to ensure that the TA is – and appears to be – fully independent. These actions are described below.

1. Establishment of a Separate Legal Entity

On December 27, 2004, BearingPoint formed a limited liability company, called 800 MHz Transition Administrator, LLC (“TA LLC”). A copy of TA LLC’s Certificate of Formation is included as Attachment 4. BearingPoint, Squire Sanders, and Baseline have agreed that they will carry out the responsibilities of the TA through this legally separate entity.²³

2. The Nextel Special Implementation Plan

One month later, on January 24, 2005, the TA filed with the Commission a copy of the BearingPoint Special Implementation Plan-Nextel (“Nextel SIP”). A copy of the Nextel SIP is included as Attachment 5. The Nextel SIP describes the means by which BearingPoint will “maintain appropriate separation between BearingPoint TA project team members and BearingPoint’ Nextel Commercial account interests.”²⁴ In developing the SIP, BearingPoint used a variety of structures and procedures that various U.S. Government agencies previously have found to be effective in avoiding conflicts of interest.²⁵

Business separation. BearingPoint currently is organized into three separate lines of business: Public Services; Financial Services; and Communications, Consumer, Industrial and Technology (“CCIT”). The Nextel SIP provides that, while its non-TA work for Nextel will

²³ Haan Aff. ¶ 8.

²⁴ Nextel SIP at 1.

²⁵ See Haan Aff. ¶ 12.

continue to be performed by its CCIT line of business, “BearingPoint’s participation in the TA project will be managed out of its Public Services line of business.”²⁶

Intra-corporate Firewall. The Nextel SIP further provides that BearingPoint will create a “firewall” to “segregate BearingPoint’s TA Project Team from BearingPoint’s commercial account relationships with Nextel.”²⁷ The firewall contains five significant safeguards.

- *First*, BearingPoint’s TA organization will have separate employees from BearingPoint’s Nextel commercial account. No BearingPoint employee or consultant who is in a decisionmaking role on one of the TA projects can work on any Nextel project. Conversely, no Bearingpoint employee or consultant who is in a decisionmaking role on a Nextel commercial matter can work on any TA project.²⁸
- *Second*, the BearingPoint personnel working on the TA project and BearingPoint personnel working on BearingPoint’s Nextel commercial account may not communicate with each other regarding their respective assignments. This includes communication “orally, in writing, by computer, or otherwise.” To the extent any communication is required between BearingPoint personnel working on the TA project and BearingPoint personnel working on BearingPoint’s Nextel commercial account, it will be “conducted through BearingPoint’s internal legal counsel.”²⁹
- *Third*, BearingPoint will adopt specific procedures to restrict access to TA-related work papers, electronically stored information, and other “project information.”³⁰
- *Fourth*, any BearingPoint employee who works on the TA Project Team “will not serve in a “business development capacity” regarding Nextel for one year after leaving the TA project.”³¹

²⁶ *Id.*

²⁷ *Id.*

²⁸ *See id.* at 2.

²⁹ *Id.*

³⁰ *Id.* at 2-3.

³¹ *Id.* at 3.

- *Fifth*, during the course of the TA project, BearingPoint will not accept “any work” from the Nextel organization responsible for the 800 MHz transition.³²

Dispute resolution/enforcement. The Nextel SIP also contains provisions governing the resolution of any dispute related to its “independence management.” This includes procedures for the “identification, reporting, review and, if necessary, resolution of any conflict issue that may arise.”³³ In addition, the Nextel SIP contains strict enforcement procedures. BearingPoint personnel working on either the TA project or Nextel commercial matters are “required to report immediately” to a designated senior management official “any perceived failure to adhere to and comply with any provisions” of the Nextel SIP.³⁴ The Nextel SIP provides that violators will be subject to a range of sanctions, up to and including termination.³⁵

Financial disclosure. Finally, the Nextel SIP provides that BearingPoint will disclose to the TA, for inclusion in the TA’s annual report to the FCC, the amount that it receives each year from Nextel for work unrelated to the TA. Consistent with this commitment, BearingPoint disclosed that, during 2004, it had received \$31,739,357.36 in fees from Nextel for non-TA related work.³⁶

³² *Id.*

³³ *Id.*

³⁴ *Id.* at 4.

³⁵ *Id.*

³⁶ *Id.* This figure represents approximately “one percent of BearingPoint’s most recently reported annual revenues.” Haan Aff. ¶ 10.

3. The Independence Management Plan

The TA has continued to take effective action to ensure its independence. Consistent with the commitment that the TA made at the time it filed the Nextel SIP, the TA has adopted an Independence Management Plan (“Plan”). A copy of the Plan is included as Attachment 6. The Plan contains a number of provisions designed to maintain “the independence of the TA” and to address “any perceived or actual conflicts of interest that may arise in connection with the TA’s performance of its duties.”³⁷

Legal, accounting, and physical separation. The Independence Management Plan provides that the responsibilities of the TA will be performed through the TA LLC. BearingPoint, Squire Sanders, and Baseline will each enter into agreements with TA LLC. TA LLC, in turn, will enter into an agreement with Nextel.³⁸ The Plan further provides that TA LLC “shall be separate from all of the TA Members.”³⁹ Specifically, TA LLC is to have “separate books, records and accounts separate and apart from the books, records and accounts of the TA Members.”⁴⁰ In addition, TA LLC “will establish office space that is segregated from other office space of BearingPoint or any other TA Member” and will have “separate electronic files and a separate website.”⁴¹

Confidentiality protection. The Independence Management Plan also contains provisions designed to ensure confidentiality. Specifically, each TA Member must instruct any

³⁷ Plan at 1.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

personnel working on TA matters to protect against disclosure – whether orally, in writing, or via computer – of non-public information regarding the project to persons not working on the project.⁴²

Special Implementation Plans for Engaged Stakeholders. The Independence Management Plan also contains a series of procedural safeguards designed to ensure that “the TA decisionmaking process shall be independent of influence from any third party.”⁴³ In particular, the Plan provides that any party that is in “any mediation or other dispute resolution proceeding conducted by the TA” will be deemed to be an Engaged Stakeholder. Once a party has been identified as an Engaged Stakeholder, each TA Member must inform the other TA Members whether it “has an existing commercial relationship with that Engaged Stakeholder, or has had such a relationship within the past 12 months.”⁴⁴

If BearingPoint of Baseline has a commercial relationship with an Engaged Stakeholder, or had such a relationship within the last 12 months, it must adopt a Special Implementation Plan (“SIP”). Squire Sanders will adopt a SIP if it has a conflict under the applicable ethical rules. The SIP describes “the safeguards and protections [that] the TA Member will implement to ensure the independence of TA decisionmaking.”⁴⁵ Such safeguards may include: (1) recusal from decisionmaking involving the Engaged Stakeholder; (2) the establishment of “ethical walls” or “firewalls” that will insulate the TA Team from contact with any TA Member company

⁴² *Id.*

⁴³ *Id.* at 2.

⁴⁴ *Id.*

⁴⁵ *Id.* at 3.

personnel that has a commercial relationship with an Engaged Stakeholder; or (3) disclosure of the relationship to the Commission.⁴⁶

Restriction on personal ownership interests in Restricted Stakeholders. The Independence Management Plan provides a further safeguard, designed to address some of the most serious risks of conflict. The Plan provides that, in any case in which an Engaged Stakeholder (or its publicly traded direct or indirect parent) derives “five percent or greater of its annual gross revenues from the provision of wireless communications goods and services,” it will be designated a Restricted Stakeholder.⁴⁷ No TA Member personnel who dedicates more than 25 percent of his or her time to TA matters may “acquire or retain a financial ownership in any Restricted Stakeholder,” except through a “mutual fund, a trust fund, or other investment vehicle where investment decisions are made by someone other than the beneficial owner.”⁴⁸

Nextel relationship. The Independence Management Plan specially addresses the relationship between the TA Members and Nextel. Pursuant to the Plan, any TA Member that has a commercial relationship with Nextel must create a Special Implementation Plan.⁴⁹ In addition, no partner or employee of a TA Member who is “substantially involved in the work of the TA” may serve in a “business development capacity with respect to Nextel” during the period of the partner’s or employee’s work for the TA, and for one year thereafter.⁵⁰ Finally, as BearingPoint has already done, each TA Member must disclose to the TA the level of non-TA

⁴⁶ *Id.*

⁴⁷ *Id.* at 4.

⁴⁸ *Id.*

⁴⁹ BearingPoint has already fulfilled this requirement. *See, supra*, § II.B.2.

⁵⁰ Plan at 3.

fees, if any, that Nextel has paid to it during the preceding year. The TA will disclose this information to the FCC.⁵¹

4. The Code of Conduct

Pursuant to the Plan, the TA has adopted a Code of Conduct (“Code”). A copy of the Code is included as Attachment 7. The Code applies to all TA Members, as well as to any TA Member’s partners, employees, and contractors that work on TA matters. The Code provides that “All TA Members and their personnel shall act to achieve and maintain, and shall refrain from acting to impair or prevent, the appearance and the reality of the integrity, independence, and impartiality of the TA in its decisionmaking and other actions.”⁵²

The Code reiterates the basic requirements contained in the Plan including: procedures to resolve conflicts; procedures to maintain confidentiality on non-public information received by the TA; provisions prohibiting personnel doing substantial work on the TA matter from engaging in Nextel business development activities; and provisions barring employees who dedicates more than 25 percent of their time to TA matters from having a direct financial ownership in any Restricted Stakeholder. The Code also provides that TA personnel may not accept “any gift, entertainment . . . or other services or matters of value . . . from any Engaged Stakeholder which could reasonably be interpreted as influencing, appearing to influence, or having the potential to influence the decisionmaking of the TA.”⁵³

⁵¹ *Id.*

⁵² Code ¶ 10.

⁵³ *Id.* ¶ 6. In general, the TA will not permit any person covered by the Code to accept a gift worth more than \$50. *See id.*

5. The Teaming Agreement

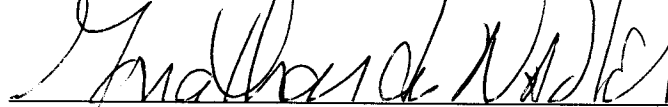
BearingPoint, Squire Sanders, and Baseline are currently finalizing their Teaming Agreement. The structure of the agreements between the parties will further ensure the TA's independence. The parties have agreed to a comprehensive set of "checks and balance." As discussed above, each of the three firms will contract with TA LLC, the legal entity through which the functions of the TA will be performed. Moreover, numerous decisions will be made, reviewed, and/or approved by the TA's General Counsel, a role that will be performed by Squire Sanders. For example, as General Counsel, Squire Sanders will have authority to review and approve any SIP developed by either BearingPoint or Baseline.

CONCLUSION

The Commission has previously recognized that any delay in the transition process would result in “palpable – even life-threatening – harm to both public safety agencies and to the public.”⁵⁴ The Movants have provided no basis on which the Commission should replace BearingPoint and thereby delay the reconfiguration process. To the contrary, the undisputed evidence demonstrates that, during the course of the selection process, Bearingpoint, Squire Sanders, and Baseline complied fully with the Commission’s disclosure requirements. Since their appointment, the three firms have taken effective action to ensure the TA’s independence. Therefore, the Movants’ Emergency Motion for Removal of BearingPoint, Inc. from Transition Administrator Team and Cessation of Transition Process Pending Announcement of a Replacement Administrator should be denied.

Respectfully submitted,

THE 800 MHz TRANSITION ADMINISTRATOR



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February 17, 2005

⁵⁴ Improving Public Safety Communications in the 800 MHz Band, Order, DA 05-166, ¶ 8 (Jan. 25, 2005).

Attachment 1

BearingPoint Disclosure to Transition Administrator Search Committee

DISCLOSURES – BEARINGPOINT, INC.

BearingPoint, Inc. has no conflict of interest related to serving as the 800 MHz Transition Administrator. Likewise, BearingPoint, Inc. does not believe that any of its past or present activities gives rise to a valid potential conflict of interest or appearance of an actual or apparent conflict of interest. Out of an abundance of caution, however, BearingPoint, Inc. discloses the following:

- (1) BearingPoint (named “KPMG Consulting, Inc.” at the time) performed an engagement for United Telecom Council, on behalf of its members, over the course of an approximately eight (8) week period beginning in April 2002. The project involved generally an analysis and report concerning the multiple factors influencing the need for utilities to upgrade mobile communications facilities. The existence of the 800 MHz interference issue was one of several factors to be considered in the analysis, which included the need for improved wireless data transmission and the designation of mobile networks as critical infrastructure.
- (2) BearingPoint has current commercial contracts with Nextel Communications, Inc. including subsidiaries and affiliates. BearingPoint is one of several vendors providing support for Nextel’s ongoing enterprise projects. These services predominantly relate to back-office systems testing and support. As part of this relationship, BearingPoint recently submitted a proposal to be considered a Nextel prime vendor to provide similar testing-related services over a period of years. BearingPoint is under a confidentiality obligation with respect to the details of its Nextel work, however, BearingPoint can state that the contracts do not involve any work with respect to 800 MHz networks and that BearingPoint has not had any interaction with Nextel’s TASC representative for any of these contracts.

Attachment 2

Affidavit of Brett Haan, BearingPoint

AFFIDAVIT OF
BRETT S. HAAN

Brett S. Haan, being duly sworn, deposes and says:

1. My name is Brett S. Haan. I am a Director in BearingPoint, Inc. ("BearingPoint"). My business address is 1676 International Drive, McLean, VA 22102.

2. I directed the preparation of BearingPoint's contribution to the "Statement of Interest to the Transition Administrator Search Committee for 800 MHz Band Reconfiguration" ("SOI") that was submitted to the Transition Administrator Search Committee ("TASC") on September 24, 2004 by BearingPoint, Baseline Telecom, Inc. ("Baseline") and Squire, Sanders & Dempsey L.L.P. ("SS&D"). I also participated in the oral presentation to the TASC on October 4, 2004, during which the substance of the SOI was discussed. I am Deputy Program Manager for the Transition Administrator ("TA").

3. BearingPoint, Inc. (NYSE:BE) is one of the worlds' largest business consulting, systems integration and managed services firms serving Global 2000 companies, medium-sized businesses, government agencies and other organizations. We provide business and technology strategy, systems design, architecture, applications implementation, network infrastructure, systems integration and managed services. Our service offerings are designed to help our clients generate revenue, reduce costs and access the information necessary to operate their business on a timely basis.

4. BearingPoint employs approximately 17,000 personnel and has, most recently, reported annual revenues of \$3.139 billion.

5. In the SOI, BearingPoint made the following disclosure:

BearingPoint has current commercial contracts with Nextel Communications, Inc. including subsidiaries and affiliates. BearingPoint is one of the several vendors providing support for Nextel's ongoing enterprise projects. These services predominantly relate to back-office systems testing and support. As part of this relationship, BearingPoint recently submitted a proposal to be considered a Nextel prime vendor to provide similar testing-related services over a period of years. BearingPoint is under a confidentiality obligation with respect to the details of its Nextel work, however, BearingPoint can state that the contracts do not involve any work with respect to 800 MHz networks and that Bearing Point has not had any interaction with Nextel's TASC representative for any of these contracts.

6. On September 24, 2004, the date on which BearingPoint submitted the foregoing disclosure to the TASC, BearingPoint was under an obligation to Nextel, pursuant to a Master Services Agreement dated April 13, 2001, not to disclose to third parties the details of the work it was performing for Nextel or the fees that BearingPoint had been paid for performing that work.

7. On September 27, 2004, BearingPoint formally learned that its "proposal to be considered a Nextel prime vendor to provide similar testing-related services over a period of years," identified in BearingPoint's disclosure to the TASC and quoted above, was not accepted by Nextel.

8. On December 27, 2004, BearingPoint formed a limited liability company called "800 MHz Transition Administrator, LLC," through which BearingPoint, Baseline and SS&D have agreed to carry out the responsibilities of the TA.

9. On January 24, 2005, the TA filed with the Commission a copy of the "BearingPoint Special Implementation Plan-Nextel" ("Nextel SIP"). As part of the Nextel SIP, BearingPoint committed to disclose annually to the Federal Communications Commission the total revenue received from Nextel. After receiving authorization from

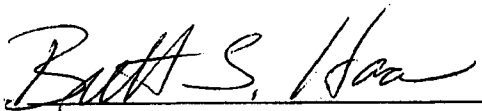
Nextel, BearingPoint disclosed to the Commission that Nextel had paid \$31.7 million in fees to BearingPoint in 2004.

10. The \$31.7 million in fees received by BearingPoint from Nextel represents approximately one percent of BearingPoint's most recently reported annual revenues. BearingPoint incurred costs to provide service to Nextel, including payments to third-party vendors. There is no basis for the Movants' speculation that the Nextel account represented "incremental revenue" and, therefore, that the portion of BearingPoint's profits that are attributable to the Nextel account was "much larger" than one percent. Nextel today accounts for an even smaller percentage of BearingPoint's revenues than it did on the day of the filing of the SOI.

11. As explained by the Nextel SIP, BearingPoint is organized along three lines of business, each of which is focused on a specific market: Public Services; Financial Services; and Communications, Consumer, Industrial and Technology ("CCIT"). Nextel is a customer of BearingPoint's CCIT business; the TA is serviced by BearingPoint's Public Services line of business. The Nextel SIP prescribes safeguards that separate the BearingPoint TA project team members in the Public Services line of business from the BearingPoint employees serving Nextel in the Communications and Contract line of business.

12. The Nextel SIP is similar to numerous other specific Organizational Conflict of Interest ("OCI") avoidance and mitigation plans that BearingPoint has implemented in connection with contracts with U.S. Government agencies, including the Department of Homeland Security ("DHS"), the Department of Justice, the Department of Transportation, and the General Services Administration. The Department of Justice OCI plan was used as a model to develop the Nextel SIP. The comprehensive nature and

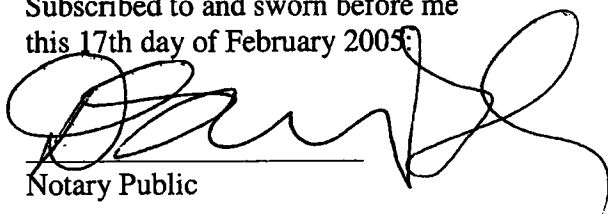
thoroughness of the OCI plans implemented by BearingPoint have recently been expressly addressed by the DHS. In a recent "bid protest" involving a contract award by the Transportation Security Administration of DHS, BearingPoint's OCI was challenged by an unsuccessful bidder. The protest was denied by Order of the Assistant Secretary of DHS, who adopted the Findings and Recommendations of the Federal Aviation Administration Office of Dispute Resolution for Acquisition ("ODRA"). The ODRA's recommended decision found that BearingPoint's OCI plan properly addressed potential conflicts and "set forth mitigation measures that would reduce the risk of such conflicts significantly."



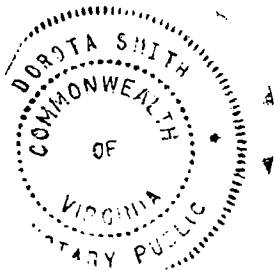
Brett S. Haan

Commonwealth of Virginia
County of Fairfax

Subscribed to and sworn before me
this 17th day of February 2005


Notary Public

DOROTA SMITH
NOTARY PUBLIC COMMONWEALTH OF VIRGINIA
My Commission Expires May 31, 2007



Attachment 3

**Letter from the Transition Administrator Search Committee
to the Federal Communications Commission**

TRANSITION ADMINISTRATOR SEARCH COMMITTEE

October 12, 2004

Michael Wilhelm, Chief
Public Safety & Critical Infrastructure Industry Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: WT Docket 02-55

Dear Mr. Wilhelm:

Pursuant to the Commission's *Report and Order* in the above-referenced proceeding, the Transition Administrator Search Committee (TASC) is pleased to provide the Commission with the attached recommendation that BearingPoint, Squire-Sanders-Dempsey LLP, and Baseline Technologies ("BearingPoint team") be appointed as the Transition Administrator, subject to Commission approval of a contract to be negotiated between Nextel and the BearingPoint team regarding hourly rates and other necessary terms and conditions.

We appreciate the opportunity to be of assistance to the Commission in this important matter. This letter and our recommendation will be filed with the Secretary.

Respectfully submitted,

Robert Gurss
Director, Legal & Government Affairs
Association of Public-Safety Communications Officials-International, Inc.

Jill Lyon
Vice President and General Counsel
United Telecom Council

Mark Crosby
President/CEO
Industrial Telecommunications Association

Geoffrey Stearn
Vice President, Spectrum Resources
Nextel Communications, Inc.

Christine Gill
McDermott, Will & Emery, LLP
Counsel for Southern LINC

Transition Administrator Search Committee Recommendation

Re: Reconfiguration of 800 MHz Band

On September 10, 2004, the Transition Administrator Search Committee (the “TASC”) issued a request for Statements of Interest (“SOI”) to solicit parties to serve as an independent Transition Administrator (“TA”) to facilitate the reconfiguration of the 800 MHz Band. The TASC received twelve SOIs by the September 24, 2004, deadline. After review of the responses, the TASC met with several interested groups on October 4, 2004.

For reasons outlined below, the TASC has determined that the team of BearingPoint, Squire-Sanders-Dempsey LLP, and Baseline Technologies (the “BearingPoint Team”) is best qualified to serve as the Transition Administrator as outlined in the Federal Communications Commission’s Report and Order in the matter of Improving Public Safety Communications in the 800 MHz Band.

Listed below is information regarding the key leaders of the BearingPoint Team:

Brett Haan, Director
BearingPoint, Inc.
1676 International Drive
McLean, VA 22102
T: 703.747.4968
F: 703.747.8514
brett.haan@bearingpoint.com

Shane Satterlund, Senior Manager
BearingPoint, Inc.
8100 Professional Place
Suite 100
Lanham, MD 20785
T: 301-429-6203
F: 301-429-6220
shane.satterlund@bearingpoint.com

Robert B. Kelly, Partner
Squire, Sanders & Dempsey L.L.P.
1201 Pennsylvania Ave., NW
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T: 202.626.6216
F: 202.626.6780
rkelly@ssd.com

Douglas L. Povich, Partner
Squire, Sanders & Dempsey L.L.P.
8000 Towers Crescent Drive
Tyson’s Corner, Virginia 22182-2700
T: 703.720.7888
F: 703.720.7801
dpovich@ssd.com

Alan J. (Joe) Boyer, President
Baseline Telecom, Inc.
2770 Arapahoe Road, Suite 132 - #133
Lafayette, CO 80026
JBoyer@BaselineTelecom.Com

Skills and Experience

The following is a brief summary of the relevant skills and experience presented by the members of the BearingPoint Team that are specifically relevant to its selection:

BearingPoint

- Expertise in managing small to large-scale, multi-faceted initiatives for government agencies and commercial entities,
- Served as an independent body in similar regulatory proceedings, such as Section 271 Compliance by Local Exchange Carriers,
- Experience assisting public authorities with financial management/accounting and auditing requirements,
- Experience working with FCC and various State Public Utility Commissions,
- Capability to provide professional staff and financial resources on an as- needed basis for multi-year reconfiguration,
- Knowledge of wireless systems and carrier operations, and
- Experience with first responder networks.

Squire-Sanders & Dempsey LLP

- Mediation skills specific to the telecommunications industry,
- Understanding of appropriate FCC's rules, policies and frequency assignment procedures, and
- Experience working with the FCC and relevant 800 MHz certified frequency advisory committees and industry associations.

Baseline Telecom

- Requisite technical expertise in 800 MHz spectrum analysis, frequency allocation and radio systems,
- Capability to develop necessary tools to gather information to define costs for complex telecommunications systems,
- Experience in complex 800 MHz regions (e.g., San Diego), and
- Knowledge of the history, development and regulatory structure of the 800 MHz band.

Qualification Criteria

As part of the Request for Statements of Interest, the TASC identified the following minimum qualifications, based upon its interpretation of the Report and Order, which the Transition Administrator must possess in order to perform in an effective manner:

- Accounting and auditing capabilities,
- Mediation skills and experience,
- Technical expertise with 800 MHz (806-824/851-869 MHz) communications systems, including specifically system architectures, the retuning process and associated costs,
- Understanding of regulations specific to the 800 MHz band,
- Understanding of radio frequency assignment procedures and methodology used in the 800 MHz band,
- Human and financial resources necessary to provide the scope and depth of services specified in the Report and Order throughout the multi-year reconfiguration process,
- Ability to work cooperatively and impartially with all relevant parties, including 800 MHz band licensees, FCC-certified frequency advisory committees, and the FCC, and
- Expertise in managing a large-scale, multi-faceted initiative.

The TASC's assessment of the BearingPoint Team's capabilities in these areas are as follows.

Accounting and auditing capabilities

The BearingPoint Team maintains sufficient in-house accounting and auditing personnel to comply with requirements of the Report and Order, as well as to provide all necessary quarterly and other periodic reports to the FCC and the parties involved in the reconfiguration process. For the annual audit requirements of the Transition Administrator, the BearingPoint Team committed to identify and work collaboratively with an independent, outside accounting firm that is acceptable to the Commission.

Mediation Skills and Expertise

Squire Sanders provided more than adequate evidence that it retains significant expertise related to alternative dispute resolution ("ADR") techniques to resolve disputes. Squire Sanders indicated that it has extensive experience in conducting neutral evaluations/expert determinations and binding and nonbinding arbitration, as well as mediations conducted both on an *ad hoc* basis and under many different institutional rules. It was noted that Squire Sanders is a charter member of the CPR Institute for Dispute Resolution and is a signatory to the Law Firm Pledge to consider and utilize ADR where appropriate.

Technical Expertise With 800 MHz Communications Systems

Baseline Telecom has managed personally the design, construction and phased introduction of commercial and public 800 MHz networks including voice, data and fixed wireless systems. Sample technical activities for which Baseline Telecom has been responsible have included the following projects.

- Design and implementation (spectrum aspects as well as network hardware) of a multi-site network in the San Diego market.
- Planning, design, implementation and management (technical and fiscal) of public-safety communications system for a large suburb in a major metropolitan area which required a complete transition into a new frequency plan while maintaining full operational capability.
- Technical and fiscal oversight of a nationwide SMR consolidator's systems that included all major trunked formats used in the commercial trunked environment. Market responsibilities included San Diego and Seattle (border regions) and major urban centers (Boston and Dallas). During spectrum acquisition periods, the networks in these areas were expanded, re-configured, and upgraded while the systems were in full operation serving thousands of mobile and portable units.
- Analyzed, recommended and negotiated the successful reconfiguration of a public safety system in a major metropolitan market in the Canadian border region.
- Designed (including circuit boards) and implemented regional and statewide SCADA networks using 800 MHz and other land mobile bands.

Understanding of Regulations Specific to the 800 MHz Band

Members of the BearingPoint Team have been involved in the 800 MHz band from virtually its inception and have been involved in all major proceedings affecting this band. In addition to participating in numerous regulatory proceedings before the FCC, members of the BearingPoint Team have been active on behalf of a wide variety of licensees in the practical implementation of the 800 MHz band regulations, including the following:

- The filing of license applications, requests for rule waivers and special temporary authorizations,
- Frequency coordination and related requirements,
- Short-spacing analytical activities,
- Border area issues,
- RF interference prediction and resolution,
- Construction certification efforts,
- Finder's preference proceedings,
- Management agreements,
- Equipment certification processes,
- Tower siting matters, and
- System reprogramming and retuning activities.

Understanding of Radio Frequency Assignment Procedures and Methodology

Members of the BearingPoint Team have had full responsibility for, and direct control over, spectrum licensing and management aspects of large 800 MHz networks, as well as managing spectrum-related activities for other parties. They have filed through frequency coordination processes applications for new system licenses, relocations, changes and swaps in frequencies, assignments of authorization, transfers of control, and for Special Temporary Authorizations. The BearingPoint Team provides a substantive understanding of the licensing issues and history of the 800 MHz band.

Necessary Human and Financial Resources for the Multi-year Reconfiguration Process

BearingPoint has substantial employee resources at their disposal, which provides the BearingPoint Team the ability to enhance or decrease the level of dedicated personnel expeditiously depending on the needs of each phase of the 800 MHz reconfiguration. Squire Sanders is able to access the legal, mediation and regulatory experience of the firm's 750 attorneys. Baseline Telecom adds relevant technical skills to the team and can secure additional support from a network of experienced colleagues and associates in the telecommunications community. In order to further supplement these resources, the BearingPoint Team has proposed the establishment of an Industry Advisory Board to provide additional expertise and guidance to the TA.

The ability to commit to an appropriate level of experienced staff and management support, coupled with mediation and technical capabilities, provided the TASC with sufficient confidence that the BearingPoint Team is well suited to accomplish the TA assignments.

The Ability to Work Cooperatively and Impartially With all Relevant Parties

The BearingPoint Team provided evidence that it has and will continue to work cooperatively with many of the entities involved in 800 MHz realignment.

The BearingPoint Team has committed to establishing open and transparent policies and processes governing the TA's operations, thereby enhancing its ability to satisfy the goals of fairness and impartiality.

Expertise in Managing a Large-scale, Multi-faceted Initiative

The BearingPoint Team possesses methodologies and capabilities that will provide the framework required to manage multiple, concurrent projects that require a high level of coordination across various teams and impacted parties. The team members have worked on numerous large-scale projects similar in scope and duration to the planned 800 MHz reconfiguration process.

From 1998 to 2003 BearingPoint served as the neutral firm for the majority of the Section 271 Regional Bell Operating Company ("RBOC") certifications conducted on a state-by-state basis. BearingPoint's role in the process was to act as the independent organization that evaluated compliance with Section 271 guidelines for state regulators. BearingPoint also facilitated the Transportation Security Administration's ("TSA") Strategic Airport Security Rollout. After the attacks of September 11, 2001, the TSA required an

immediate evaluation and certification of the 452 airports in the United States. In five months, working with more than 2,300 people from multiple companies and communities, BearingPoint was able to develop an Overall Strategy and Program Management program for the TSA.

Certification of Independence and No Financial Interest

Each firm within the BearingPoint Team has submitted a Certification of Independence and No Financial Interest pursuant to paragraph 191 of Improving Public Safety Communications in the 800 MHz Band Report and Order.¹ Upon review of these disclosures and after additional discussions with Team representatives, the TASC has not discovered any area of concern relating to the independence or financial interests of the firms that make up the Team. The TASC believes the Team can serve as an independent Transition Administrator based on the disclosures provided by BearingPoint, Squire-Sanders-Dempsey LLP, and Baseline Technologies, respectively.

Selection of the BearingPoint Team

The TASC conducted an in-depth review of the twelve SOIs it received from interested parties and conducted face-to-face meetings with several of the interested parties. Based upon this analysis, the TASC members recommend unanimously the BearingPoint Team to serve as the FCC's Transition Administrator. The TASC determined that overall, the BearingPoint Team possessed the strongest skills among those responding and evidenced a demonstrated capability to successfully fulfill the responsibilities of the Transition Administrator. Furthermore, the TASC believes that the BearingPoint Team will be independent, impartial and will remain free of any potential conflict with regard to this undertaking.

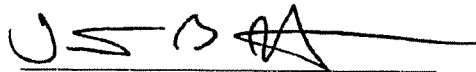
¹ Certification of Independence and No Financial Interest submissions included in Appendix A

CERTIFICATION OF INDEPENDENCE AND NO FINANCIAL INTEREST

Pursuant to paragraph 191 of *Improving Public Safety Communications in the 800 MHz Band*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, WT Docket No. 02-55, FCC 04-168 (rel. Aug. 6, 2004) (as modified by an Erratum dated Sept. 10, 2004) and 47 C.F.R. § 90.676, BearingPoint, Inc. certifies that it has no financial interest in any 800 MHz licensee.

IN WITNESS WHEREOF, the undersigned have executed this Certification of Independence and No Financial Interest this 24th day of September 2004.

BEARINGPOINT, INC.



[Name]

[Title] Assistant Secretary

DISCLOSURES – BEARINGPOINT, INC.

BearingPoint, Inc. has no conflict of interest related to serving as the 800 MHz Transition Administrator. Likewise, BearingPoint, Inc. does not believe that any of its past or present activities gives rise to a valid potential conflict of interest or appearance of an actual or apparent conflict of interest. Out of an abundance of caution, however, BearingPoint, Inc. discloses the following:

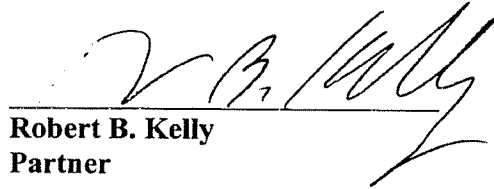
- (1) BearingPoint (named “KPMG Consulting. Inc.” at the time) performed an engagement for United Telecom Council, on behalf of its members, over the course of an approximately eight (8) week period beginning in April 2002. The project involved generally an analysis and report concerning the multiple factors influencing the need for utilities to upgrade mobile communications facilities. The existence of the 800 MHz interference issue was one of several factors to be considered in the analysis, which included the need for improved wireless data transmission and the designation of mobile networks as critical infrastructure.
- (2) BearingPoint has current commercial contracts with Nextel Communications, Inc. including subsidiaries and affiliates. BearingPoint is one of several vendors providing support for Nextel’s ongoing enterprise projects. These services predominantly relate to back-office systems testing and support. As part of this relationship, BearingPoint recently submitted a proposal to be considered a Nextel prime vendor to provide similar testing-related services over a period of years. BearingPoint is under a confidentiality obligation with respect to the details of its Nextel work, however, BearingPoint can state that the contracts do not involve any work with respect to 800 MHz networks and that BearingPoint has not had any interaction with Nextel’s TASC representative for any of these contracts.

CERTIFICATION OF INDEPENDENCE AND NO FINANCIAL INTEREST

Pursuant to paragraph 191 of *Improving Public Safety Communications in the 800 MHz Band*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, WT Docket No. 02-55, FCC 04-168 (rel. Aug. 6, 2004) (as modified by an Erratum dated Sept. 10, 2004) and 47 C.F.R. § 90.676, Squire, Sanders & Dempsey L.L.P. certifies that it has no financial interest in any 800 MHz licensee.

IN WITNESS WHEREOF, the undersigned have executed this Certification of Independence and No Financial Interest this 24th day of September, 2004.

Squire, Sanders & Dempsey L.L.P.


Robert B. Kelly
Partner

DISCLOSURES – SQUIRE, SANDERS & DEMPSEY L.L.P.

Squire, Sanders & Dempsey L.L.P. (“SS&D”) has no conflict of interest related to serving as a subcontractor to the 800 MHz Transition Administrator. Likewise, SS&D does not believe that any of its past or present activities gives rise to a potential conflict of interest or appearance of an actual or apparent conflict of interest. Out of an abundance of caution, SS&D discloses the following:


- (1) SS&D attorneys represented The Boeing Company in the 800 MHz proceeding (WT Docket No. 02-55). In connection with its representation of Boeing, SS&D submitted two filings for the record in WT Docket No. 02-55 on behalf of the Border Area Coalition, but did not act as legal counsel for the Border Area Coalition. SS&D is not actively representing any entity in the 800 MHz proceeding at this time.
- (2) In serving in the capacity of counsel to the Transition Administrator, SS&D will not undertake to represent or counsel any other party in matters before the TA or in mediation, arbitration or other proceedings or transactions in which the TA is a party.

CERTIFICATION OF INDEPENDENCE AND NO FINANCIAL INTEREST

Pursuant to paragraph 191 of *Improving Public Safety Communications in the 800 MHz Band*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, WT Docket No. 02-55, FCC 04-168 (rel. Aug. 6, 2004) (as modified by an Erratum dated Sept. 10, 2004) and 47 C.F.R. § 90.676, Baseline Telecom, Inc. certifies that it has no financial interest in any 800 MHz licensee.

IN WITNESS WHEREOF, the undersigned have executed this Certification of Independence and No Financial Interest this 24th day of September, 2004.

Baseline Telecom, Inc.



Alan J. Boyer
President

DISCLOSURES – BASELINE TELECOM, INC.

Baseline Telecom Inc. has no conflict of interest related to serving as a subcontractor to the 800 MHz Transition Administrator. Likewise, Baseline Telecom, Inc. does not believe that any of its past or present activities gives rise to a valid potential conflict of interest or appearance of an actual or apparent conflict of interest.

CERTIFICATION AND DISCLOSURE STATEMENT – JOSEPH L. HANNA

Pursuant to paragraph 191 of *Improving Public Safety Communications in the 800 MHz Band*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, WT Docket No. 02-55, FCC 04-168 (released Aug. 6, 2004) (as modified by an Erratum dated Sept. 10, 2004) and 47 C.F.R. § 90.676, Joseph L. Hanna hereby certifies that he has no financial interest in any 800 MHz licensee and has no conflict of interest in serving as a member of the Independent Advisory Board ("IAB") to the 800 MHz Transition Administrator.

He discloses the following:

1. I am a life member and past President of APCO International.
2. Since November, 2000, I have been a private consultant to public safety agencies and private organizations on issues concerning public safety communications systems. I have previously consulted with a number of parties regarding the proposed reconfiguration of public safety systems in the 800 MHz band, including Nextel, Cingular and various public safety agencies. No such consulting relationship is currently active.
3. While serving as a member of the IAB, I will recuse himself from participation on the IAB in any proceedings involving any party for whom I may then be engaged in providing consulting services.

IN WITNESS WHEREOF, the undersigned have executed this Certification and Disclosure Statement this 24th day of September, 2004.



Joseph L. Hanna

Attachment 4

800 MHz Transition Administrator, LLC Certificate of Formation

Delaware

PAGE 1

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "800 MHZ TRANSITION ADMINISTRATOR, LLC", FILED IN THIS OFFICE ON THE TWENTY-SEVENTH DAY OF DECEMBER, A.D. 2004, AT 2:15 O'CLOCK P.M.



3902997 8100

040941000

Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 3578405

DATE: 12-27-04

CERTIFICATE OF FORMATION
OF
800 MHz TRANSITION ADMINISTRATOR, LLC

The undersigned, an authorized person for purposes of filing this Certificate of Formation of 800 MHz Transition Administrator, LLC (the "LLC") pursuant to Section 18-201 of the Delaware Limited Liability Company Act, certifies the following:

FIRST: The name of the LLC is 800 MHz Transition Administrator, LLC.

Second: The name and address of the registered agent of the LLC in Delaware is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808. The address of the registered agent is in Kent County.

THIRD: The existence of the LLC shall be perpetual.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation as of the 27th day of December 2004.

/s/David Schweisow
Authorized Person

State of Delaware
Secretary of State
Division of Corporations
Delivered 02:22 PM 12/27/2004
FILED 02:15 PM 12/27/2004
SRV 040941000 - 3902997 FILE

Attachment 5

BearingPoint Special Implementation Plan-Nextel

January 24, 2005

BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Notification - WT Docket No. 02-55

Dear Ms. Dortch:

On behalf of the 800 MHz Transition Administrator ("TA"), I am attaching for filing in the above-referenced docket a copy of the "BearingPoint Special Implementation Plan-Nextel" ("SIP") adopted by BearingPoint, Inc. ("BearingPoint"). The BearingPoint SIP implements the organizational and process construct that will be used by BearingPoint to maintain appropriate separation between BearingPoint TA project team members and BearingPoint Nextel commercial account interests (which, as set forth in the BearingPoint disclosures submitted to the Commission, predominantly relate to back-office systems testing and support). The BearingPoint SIP is a part of the TA's Independence Management Plan ("IMP") that is under development and will be submitted to the Commission shortly.

Should there be any questions concerning the BearingPoint SIP, kindly contact this office.

Sincerely,

/s/ Robert B. Kelly
Robert B. Kelly
Squire, Sanders & Dempsey L.L.P.

Attachment

cc: Michael Wilhelm (Michael.Wilhelm@fcc.gov)
Herbert Zeiler (Herbert.Zeiler@fcc.gov)
Roberto Mussenden (Roberto.Mussenden@fcc.gov)
Brian Marengo (Brian.Marengo@fcc.gov)
Elizabeth Lyle (Elizabeth.Lyle@fcc.gov)



**BEARINGPOINT SPECIAL
IMPLEMENTATION PLAN FOR NEXTEL**

Filed with the FCC on January 24, 2005

CONTACTS

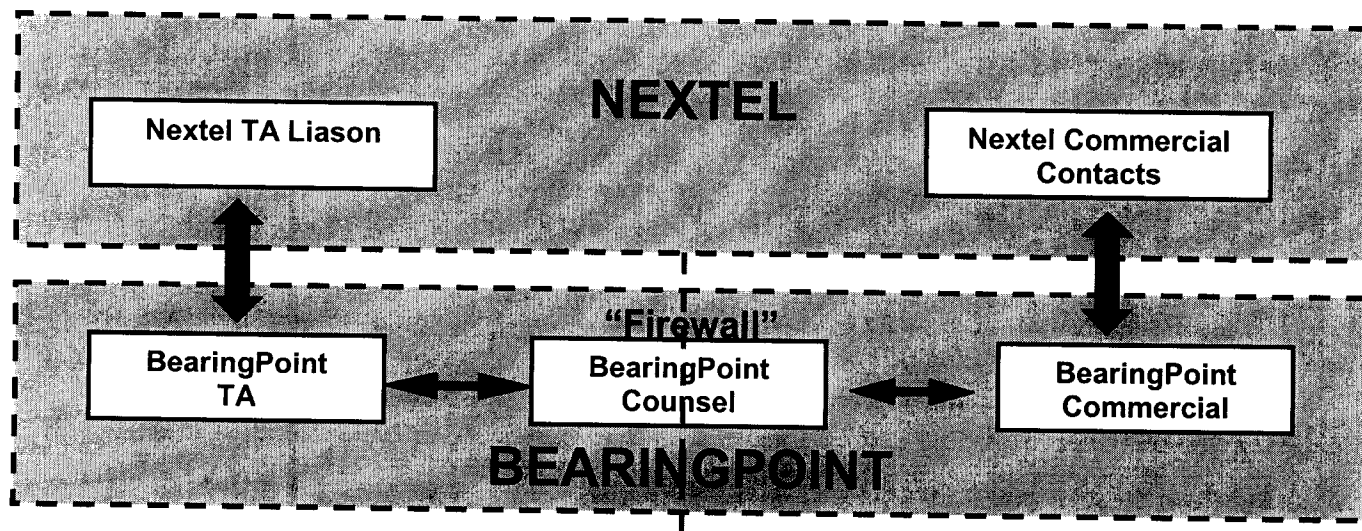
Keith Kuder, Legal Department
BearingPoint, Inc.
1676 International Drive
McLean, VA 22102
T: 703.747.6934
keith.kuder@bearingpoint.com

I. INTRODUCTION

As previously disclosed, to the TA Selection Committee and the FCC, BearingPoint has an existing commercial relationship with Nextel. Given Nextel's unique role in the Project, the TA anticipates the need to interact frequently with Nextel in order to fulfill its responsibilities. This "BearingPoint Special Implementation Plan – Nextel" is dedicated to describing BearingPoint's organizational and process construct to maintain appropriate separation between BearingPoint TA project team members and BearingPoint's Nextel Commercial account interests.

II. PROJECT ORGANIZATION

The TA Project will be managed out of BE's Public Services line of business. BearingPoint is organized along four lines of business all of which focus on a specific market: Public Services; Financial Services; Communications and Content; and Consumer, Industrial, and Technology. Nextel is a BearingPoint customer in the Communications and Content sector. Given the nature of the 800 MHz Report and Order from the FCC, BearingPoint's participation in the TA project will be managed out of BearingPoint's Public Services line of business. The BearingPoint TA Program Manager, is not included in meetings and reports to discuss Communications and Content projects and proposals such as Nextel. Within BearingPoint, BearingPoint TA team members may communicate the status of the TA project only to BearingPoint Public Services Executives and not to executives of any of the other lines of business, including Communications and Content. Consistent with the TA independence management plan, all decision making affecting TA licensees and Engaged Stakeholders will be the responsibility of the TA team members. The BearingPoint TA Program Manager, is permitted, however, to consult, as needed, with BearingPoint's Executive Vice President of Federal Services who has been designated as BearingPoint's executive sponsor for this Program, and who is part of Public Services.



BearingPoint will maintain an operational "firewall." The purpose of the firewall is segregate BearingPoint's TA Project Team from BearingPoint's commercial account relationships with Nextel. The scope of the firewall includes project team assignments and restricted activities, limitation on project team interaction and communication, and segregation of project team documentation. The diagram above illustrates the concept of the BearingPoint operational firewall.

BearingPoint's TA organization will be separate and distinct from its Nextel Account. Employees and consultants of BearingPoint who are working on the TA Project will not work on any Nextel commercial projects. Employees and consultants of BearingPoint who have worked on the TA Project and are in an authoritative or decision making role, will not work on any Nextel commercial projects. Employees and consultants of BearingPoint who are in an authoritative or decision making role and who are working on, or have, after October 12, 2004, worked on any Nextel commercial projects, will not work on the TA Project. By way of example, no TA Project resources may participate in any way in the preparation of a proposal for Nextel or work with BearingPoint's Nextel account team on any business development activities. Each of the Nextel Account Managing Director and the TA Project Manager will be responsible for identifying for their senior management the individuals on their respective teams, such that BearingPoint's senior management is fully aware of the personnel who are subject to the separation set forth herein. BearingPoint Nextel Account team members shall not discuss or attempt to influence TA decision making in any fashion.

Additional firewall restrictions on TA Project team members. The TA Project team will not communicate orally, in writing, by computer, or otherwise, anything that relates in any way to the TA Project to any BearingPoint personnel working on the Nextel Account. BearingPoint personnel working on the TA Project shall not seek access to, shall not be granted access to, and shall not read files or documents, whether in paper or computer form, which concern the Nextel Account other than in their role serving the TA. Any BearingPoint personnel who are not working on the TA Project or the Nextel Account but who in any manner at any time learn information directly or indirectly from the TA Project team shall not disclose that information to any BearingPoint personnel who are working on the Nextel Account and shall thereafter be treated as members of the TA Project team for purposes of the firewall described herein. BearingPoint legal counsel is the designated representative that is permitted to communicate any required information between the TA Project Team and the BearingPoint Nextel Account team pursuant to this Special Implementation Plan.

Additional firewall restrictions on BearingPoint Nextel Account team members. The BearingPoint Nextel Team shall not communicate orally, in writing, by computer, or otherwise, anything that relates to the Nextel Account to any BearingPoint personnel working on the TA Project. BearingPoint personnel working on the Nextel Account shall not seek access to, shall not be granted access to, and shall not read files or documents, whether in paper or computer form, which are maintained by the TA Project Team. Any BearingPoint personnel who are not working on the TA Project or the Nextel Account but who in any manner at any time learn information directly or indirectly from the Nextel Account team shall not disclose that information to any BearingPoint personnel who are working on the TA Project and shall thereafter be treated as members of the Nextel Account team for purposes of the firewall described herein.

Certain Communications. Any required TA communications between BearingPoint TA project team members and BE Nextel account team members will be conducted through BearingPoint's internal legal counsel. Members of the Nextel Account team and members of the TA Project team will be briefed on the Independence Management Plan and their responsibilities by the BearingPoint legal counsel. The BearingPoint TA project team members will not be involved in communications with Nextel regarding any BearingPointNextel commercial account activity, and BearingPoint Nextel Account team members will not be involved in communication with Nextel concerning the TA Project.

BearingPoint will segregate TA project documentation. With respect to TA Project documentation, BearingPoint will maintain work papers that are under the control of only the TA Program Manager and members of the TA Project team. In addition, any TA Project-related information that is electronically stored shall be accessed via permission only, with control of access the responsibility of the TA Program Manager. No project information will be shared by members of the BearingPoint TA Project team with members of any other

BearingPoint Nextel project team. Furthermore, BearingPoint TA team members will not have access to any Nextel commercial account work papers.

Limitations on BearingPoint Nextel commercial roles: To maximize the efficacy of this firewall, BearingPoint TA Project Team members who complete their TA project assignments, will not serve in a business development capacity at Nextel for a period of one-year after leaving the TA project. In addition, BearingPoint will not accept any work with the Nextel organization responsible for the implementation of the 800 MHz R&O.

III. ISSUE RESOLUTION

BearingPoint will establish a “report, review, resolve” process for dealing with independence management. The Plan incorporates a process to facilitate the identification, reporting, review and, if necessary, resolution of any conflict issues that arise during the Project. The TA Program Manager has an ongoing responsibility throughout the course of performance of the Project to identify and report potential conflicts of interest that arise from the performance of tasks under the contract to the TA General Counsel. The BearingPoint Nextel Account Managing Director has an ongoing responsibility throughout the course of performance of BearingPoint engagements with Nextel to identify and report potential conflicts of interest that arise from the performance of those engagements to BearingPoint Legal. Similarly, each member of the TA Project team and each member of the Nextel Account team is responsible for reporting any potential conflict of which they become aware in the course of performing their duties.

The BearingPoint TA Program Manager will identify and report potential conflicts. To allow for review of potential conflicts that may arise as a result of the TA Project, the TA Program Manager will, upon identifying a potential conflict of interest, promptly provide to the TA General Counsel an e-mail with the subject “Notice of TA Potential Conflict” (a “Notice”) that describes in detail the background facts and circumstances creating the potential conflict.

The Nextel Account Managing Director will identify and report any projects that may create a conflict of interest. The Nextel Account Managing Director will provide a Notice to BearingPoint Legal with respect to any project which such Managing Director believes could create a conflict of interest.

BearingPoint Legal will review and resolve internal BearingPoint Notices. With respect to any Notice sent to BearingPoint Legal, BearingPoint Legal will promptly review any Notice, conduct any follow-up or additional inquiry as needed, and prepare an advisory note for the TA Program Manager, TA General Counsel, the BearingPoint Executive Vice President responsible for the Federal Services Practice and the Nextel Account Managing Director concerning the existence and extent, if any, of a conflict, and, if necessary, refer to the TA General Counsel for the appropriate and reasonable remedial actions.

The TA General Counsel will review and resolve Notices that are sent by the TA Project Manager. For Notices that arise internal to the TA Project, the TA General Counsel will perform the review and analysis and prepare an advisory note. Responsibility for taking action upon the advisory rests with the TA General Counsel and the affected parties. This may include a disclosure to the FCC and/or other stakeholders with respect to the potential conflict of interest at the discretion of the TA General Counsel.

IV. COMPLIANCE/ENFORCEMENT

BearingPoint TA Project employees will be subject to discipline for failure to adhere to the Independence Management Plan and the TA Code of Conduct. In addition to being required to report any actual or potential Conflict, all TA personnel and the BearingPoint personnel assigned to the Nextel Account (for the duration of the TA Project) are required to report immediately to the TA Project Manager and Nextel Account Managing Director, respectively, any perceived failure to adhere to and comply with any of the provisions of this Special Implementation Plan for Nextel of the Independence Management Plan. To ensure timely reporting, employees are authorized to report any failures directly to the TA Project Manager or Nextel Account MD regardless of the employee's employment grade, or to report directly to the BearingPoint Legal department (specifically the counsel assigned to support the TA Project, who will be identified to all Nextel Account and TA Project team resources). Any BearingPoint (and TA subcontractor) personnel determined to have committed a violation of the Code of Conduct referenced above will be subject to a range of disciplinary actions, depending on the nature of the violation and the facts and circumstances leading to the violation. Applicable disciplinary actions range from counselling the violator, through placing a letter of reprimand in his or her personnel file, to termination of his or her employment. Any material violation of the Code of Conduct will result in the immediate removal of that violator from the TA Project or the Nextel Account, as applicable, while BearingPoint determines the appropriate disciplinary action.

V. DISCLOSURES

Disclosure. Pursuant to this Special Implementation Plan, BearingPoint plans to annually disclose to the TA the amounts paid to BearingPoint by Nextel for the prior calendar year. During the period from January 1, 2004, through December 31, 2004, BearingPoint was paid by Nextel for non-TA fees in the amount of \$31,739,357.36. BearingPoint will provide this disclosure to the TA in time for the TA to include it each year in its annual report to the FCC.

Attachment 6

Transition Administrator Independence Management Plan



**INDEPENDENCE MANAGEMENT PLAN
FOR
800 MHz TRANSITION ADMINISTRATOR
TEAM MEMBERS**

February 17, 2005

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OVERVIEW

The 800 MHz Transition Administrator (“TA”) team of BearingPoint, Inc. (“BearingPoint”), Squire, Sanders & Dempsey L.L.P. (“SS&D”), and Baseline Telecom, Inc. (“BTI”) (each, a “TA Member,” collectively, the “TA Team” or the “TA Members”) recognizes that many sensitive issues with far-reaching public safety and commercial ramifications will be involved in the upcoming 800 MHz band reconfiguration process. In this document the TA describes its approach to maintaining the independence of the TA and to addressing any perceived or actual conflicts of interest that may arise in connection with the TA’s performance of its duties.

INTRODUCTION

This Independence Management Plan (the “Plan”) is intended to govern the TA’s and each TA Member’s conduct in the 800 MHz band reconfiguration project (the “Project”) and to assure the independence of its decisionmaking process. This Plan and the general code of conduct (the “TA Code of Conduct” or “TA Code”) are applicable to all employees or other representatives of the TA Team involved in the Project and describe rules for interacting with certain of the various 800 MHz band reconfiguration stakeholders with whom the TA actively becomes engaged. This Plan has been formally adopted by each of BearingPoint, SS&D and BTI and may not be amended except by a written amendment incorporated in the Plan formally adopted by each of these parties. Any such amendments shall be effective only as of the date such amendments are adopted by all three parties. The Plan provides for the independence of the TA: (a) through structure and organization, including checks and balances maintained among BearingPoint, SS&D and BTI; (b) through procedural safeguards and conflict of interest reporting and resolution; (c) through the oversight and review of the TA by the Federal Communications Commission (“FCC”); and (d) through an audit by an independent accounting organization of the annual financial reports prepared by the TA.

I. TA STRUCTURAL AND ORGANIZATIONAL INDEPENDENCE

BearingPoint, pursuant to the agreement of all of the TA Members, has formed a separate subsidiary, 800 MHz Transition Administrator, LLC (“TA LLC”) to undertake the responsibilities of the TA and to enter into the agreement with Nextel Operations, Inc. (together with Nextel Communications, Inc., “Nextel”) contemplated by the FCC in its Report and Order, FCC 04-168, as supplemented by its Supplemental Order and Order on Reconsideration, FCC 04-294 (together, the “Order”). Each of the TA Members, in turn, shall enter into agreements with TA LLC providing for the fulfillment of their respective responsibilities in the TA. Functionally, the organizational and leadership structure of the TA shall ensure the independence of the TA through peer review, consultation, and action among the TA Members, as described herein. None of the TA Members or TA LLC shall hold a financial interest in any 800 MHz licensee.

TA LLC shall be separate from all of the TA Members. TA LLC shall maintain books, records and accounts separate and apart from the books, records and accounts of the TA Members. TA LLC will establish office space that is segregated from other office space of BearingPoint or any other TA Member. TA LLC shall maintain separate electronic files and a separate website dedicated to the TA, provided that the forgoing shall not restrict BearingPoint or any other TA Member from continuing to have access to their respective email and intranet systems.

Each TA Member shall instruct its TA personnel: (a) to protect against the disclosure to persons not working on the Project, whether other employees of the TA Member or the public, of nonpublic information involving decisionmaking in the Project when making oral statements or when handling paper and computer documents and (b) not to communicate to personnel not in one of the TA Members any oral, written, or computer information that is nonpublic information involving decisionmaking in the Project.

Nothing in this Independence Management Plan shall be deemed to limit the ability of TA Member personnel to make disclosures to the FCC, public, or others as part of the fulfillment of the TA's duties pursuant to the Order.

Nothing in this Independence Management Plan shall be construed to alter the duties applicable to SSD, or any other attorneys working for the TA, under the applicable rules or codes of professional ethics in the District of Columbia, Virginia and other applicable states.

Nothing in this Independence Management Plan shall restrict providing documents in paper or computer readable form to messengers, IT personnel, and file room personnel for maintenance in file cabinets, computer storage, or file rooms or elsewhere within any TA Member's space to which outsiders are not granted free access, nor to providing information for generally applicable internal record-keeping, such as hours worked and accompanying descriptions or expenses or revenues generated, nor to the provision of information to computer systems as part of automatic or generally applicable procedures, such as servers or back-up media.

Nothing in this Independence Management Plan shall restrict disclosure of information and records to other personnel in TA Members when personnel directly engaged in the TA decisionmaking process consult with such personnel. Personnel consulted shall hold information communicated to them confidential under the same restrictions as the personnel directly engaged in the TA decisionmaking process who supplied it. Without limiting the generality of the foregoing, the Program Manager Officer ("PMO") is permitted to consult, as needed, with: (a) BearingPoint's executive sponsor for this project which is BearingPoint's Executive Vice-President for Public Services (the "Sponsor") and (b) any designee of the Sponsor provided such designee is (i) within the Public Services organization, (ii) a subordinate of the Sponsor, and (iii) a superior of the PMO.

II. TA PROCEDURAL SAFEGUARDS

The TA decisionmaking process shall be independent from influence from any third party. The TA is subject to FCC oversight, regulation and review as described in the Order and in the FCC's rules and regulations. The TA shall implement procedural safeguards to ensure that it complies with all applicable provisions of law, including the FCC's rules and regulations, and that its decisionmaking process is impartial. Such safeguards shall include, but not be limited to:

Identification of Engaged Stakeholders

For purposes of this Plan, an entity will be deemed to be an engaged stakeholder ("Engaged Stakeholder") in the event that it: (a) is a party in any mediation or other dispute resolution proceeding conducted by the TA, or (b) is identified on the list of Engaged Stakeholders attached hereto as Attachment B. Any of BearingPoint, SS&D or BTI may request the classification of any party as an Engaged Stakeholder at any time; and, upon agreement of any two TA Members, such party shall be added to the list of Engaged Stakeholders. The TA General Counsel shall maintain the list of Engaged Stakeholders and attach such list, as amended from time to time, to this Plan as Attachment B.

Conflict Reporting & Resolution

Upon identification of a party as an Engaged Stakeholder, each TA Member shall promptly identify to other TA Members whether its organization has an existing commercial relationship with that Engaged Stakeholder, or has had such a relationship within the past twelve months. Each TA Member also shall establish internal processes for identifying, reviewing and addressing circumstances that give rise to potential or actual conflicts of interest,

whether from new business, existing business or otherwise, including procedures to identify whenever its organization undertakes a commercial relationship with any Engaged Stakeholder.

BearingPoint and BTI shall each promptly advise the TA General Counsel whether its organization has, or had, within the last twelve months, any commercial relationship with any Engaged Stakeholder. SS&D shall promptly advise the TA PMO if it has a legal conflict in the representation of the TA in matters involving an Engaged Stakeholder as determined by the applicable rules and codes of professional ethics in the District of Columbia, Virginia or other applicable states.

In the event that a TA Member identifies a relationship or, in the case of SS&D, a legal conflict, with an Engaged Stakeholder, such TA Member shall adopt a Special Implementation Plan (“SIP”) to be appended to this Independence Management Plan describing the safeguards and protections such TA Member will implement to ensure the independence of TA decisionmaking. Such safeguards may include: (a) the recusal or withdrawal of such TA Member (or individual representatives of such TA Member) from TA decisionmaking or proceedings regarding that Engaged Stakeholder; (b) the establishment of ethical walls or firewalls insulating the TA Team from contact with any TA Member representative involved in a commercial relationship with an Engaged Stakeholder; (c) the disclosure of such relationship to the FCC or stakeholders; (d) in the case of a legal conflict, written consent from both the Engaged Stakeholder and from the TA PMO on behalf of the TA; or (e) such other measures as may be appropriate to the particular circumstances. Such SIPs shall describe the process for proactively identifying, reviewing and addressing circumstances that give rise to potential conflicts of interest with such Engaged Stakeholder, and may establish consequences for employee violations of such SIPs. The TA General Counsel shall approve all SIPs of BearingPoint and BTI, and the PMO shall approve all SIPs of SS&D. Each SIP will proscribe non-TA-related work that relates to any Engaged Stakeholder’s internal 800 MHz reconfiguration effort. It is the obligation of each TA Member to maintain on a current basis accurate disclosures regarding any commercial relationships with Engaged Stakeholders.

Nextel

Pursuant to the terms of the Order, the TA must enter into an agreement with Nextel and submit its invoices to Nextel. In addition, given Nextel’s unique role in the Project, the TA anticipates the need to interact frequently with Nextel in order to fulfill its responsibilities. Nextel also will be a party to alternative dispute resolution (“ADR”) proceedings conducted by the TA. Given this interaction, the TA hereby adopts the following policies to ensure the insulation of its decisionmaking processes:

1. For any TA Members with an existing commercial relationship with Nextel, a SIP will be created to describe the safeguards and protections it will implement to ensure the independence of TA decisionmaking. BearingPoint has previously disclosed its commercial relationship with Nextel, and implemented and filed with the FCC a SIP with respect thereto.
2. No partner or employee of a TA Member who is substantially involved with work of the TA (other than in a secretarial, ministerial, or similar capacity) will serve in a business development capacity with respect to Nextel throughout the period of such partner’s or employee’s work for the TA and for a period of one year following the cessation of such partner’s or employee’s work for the TA. In the event of any uncertainty concerning a partner’s or employee’s involvement in the work of the TA, BearingPoint and BTI shall apply to the TA General Counsel, and SS&D shall apply to the PMO, for a determination as to whether such partner or employee was “substantially involved” with the work of the TA and should be precluded from business development activities with Nextel. Even for partners or employees who have been substantially involved in the work of the TA, in an appropriate case the TA General Counsel (for employees of BearingPoint and BTI) and the PMO (for partners or employees

of SS&D) may grant permission for the partner or employee to work on business development activities with respect to Nextel if the grant of permission will not compromise the appearance or reality of the TA's independence or neutrality.

3. The TA will disclose the level of non-TA fees paid to each TA Member by Nextel. The first disclosure occurred with the filing of the BearingPoint SIP in January 2005. The TA will update this disclosure each subsequent year in the TA's annual report.

Restricted Stakeholders

Restricted Stakeholders shall include each Engaged Stakeholder (or the publicly-traded direct or indirect parent of an Engaged Stakeholder) whose prior year financials or, in the absence of financials, other reliable information shows that it derived five percent or greater of its annual gross revenues from the provision of wireless communications goods or services. In addition, any TA Team Member may request that any Engaged Stakeholder be added to the list of Restricted Stakeholders. Such Engaged Stakeholder will be added if any two TA Members agree upon such addition. The TA General Counsel shall maintain the list of Restricted Stakeholders and attach such list hereto as Attachment C as it shall be amended from time to time. No TA Member personnel who dedicates to the Project more than 25 percent of their work time for their employer in any month will, after learning about the percentage of their time spent in the previous month for the Project, acquire or retain a financial ownership in any Restricted Stakeholder excepting such interests as may be held indirectly through ownership of a mutual fund, a trust fund or other investment vehicle where investment decisions are made by someone other than the beneficial owners thereof.

TA Code of Conduct

The independence and impartiality of the TA is critically important to success of the Project. The objective of the TA Code of Conduct, attached hereto as Attachment A, is to promote such independence and impartiality. Each TA Member shall provide for compliance with the TA Code of Conduct by such TA Member's partners, employees and contractors who work on TA matters or learn TA nonpublic information about TA decisionmaking. Each TA Member may adopt, from time to time, other internal operating procedures for the purpose of the fair and efficient operation of the TA or for the purpose of maintaining or enhancing the TA's independence and impartiality.

Every consultant hired by the TA to assist with the Project will be required as part of its agreement with the TA to adopt and adhere to the TA Code of Conduct.

III. OVERSIGHT

The TA was selected pursuant to the terms of the Order and is subject to the oversight of the FCC. The TA's decisions may be subject to de novo review by the FCC. Each TA Member shall strictly comply with all applicable FCC rules and regulations. The TA shall make such reports and disclosures to the FCC as may be required or requested by the FCC from time to time.

The TA, through the TA General Counsel, will provide additional disclosures to the FCC as requested by the FCC or as the TA determines to be appropriate in connection with maintaining the impartiality and independence of the TA. The TA may address the need of any such additional disclosure with the FCC prior to such disclosure.

The TA shall engage an independent accounting firm to audit the annual financial reports called for in the Order.

IV. ALTERNATIVE DISPUTE RESOLUTION

All ADR procedures conducted by the TA pursuant to the Order will be governed by an ADR plan developed, implemented, maintained and managed by the TA General Counsel consistent with the Order. The ADR plan will incorporate appropriate measures to handle potential conflicts of interest between the parties to the mediation or arbitration and the mediators or arbitrators.

ATTACHMENT A

TA Code of Conduct

This Code of Conduct is adopted pursuant to the Independence Management Plan of the 800 MHz Transition Administrator (“TA”) team of BearingPoint, Inc. (“BearingPoint”), Squire, Sanders & Dempsey L.L.P. (“SS&D”), and Baseline Telecom, Inc. (“BTI”) (each, a “TA Member,” collectively, the “TA Team” or the “TA Members”). Capitalized terms not otherwise defined have the same meanings as are set forth in the Independence Management Plan.

1. This Code of Conduct is applicable to the TA Members and to their respective partners, employees and contractors who work on TA matters or learn TA nonpublic information about TA decisionmaking (“TA personnel”).
2. As specified in the Independence Management Plan, each TA Member shall establish internal procedures to identify and resolve potential conflicts of interest concerning Engaged Stakeholders and to make disclosures.
3. Each TA Member shall maintain the confidentiality of nonpublic information received or generated by the TA.
4. Each TA Member shall instruct its TA personnel (a) to take reasonable steps to protect against the disclosure to persons not working on the Project, whether other employees of the TA Member or the public, of nonpublic information involving decisionmaking in the Project when making oral statements or when handling paper and computer documents and (b) not to communicate to personnel not in one of the TA Members any oral, written, or computer information that is nonpublic information involving decisionmaking in the Project.
5. No TA Member, no subsidiary of a TA Member, and no TA personnel who dedicate more than 25% of their working time to TA matters within any three consecutive calendar months shall have any financial ownership in any Restricted Stakeholder, excepting such interests as may be held indirectly through ownership of a mutual fund, a trust fund or other investment vehicle where investment decisions are made by someone other than the beneficial owners thereof. Any such ownership which exists at the time (a) a company is listed as a Restricted Stakeholder or (b) when a person becomes subject to this restriction shall be divested by the owner thereof within two months of the person learning of such listing or of becoming subject hereto, respectively.
6. No TA Member, no subsidiary of a TA Member and no TA personnel shall accept any gift, entertainment (including meals not associated with the conduct of the business of the TA) or other service or matter of value (“Gifts”) from any Engaged Stakeholder which could reasonably be interpreted as influencing, appearing to influence or potentially influencing the decisionmaking of the TA. Without limiting the generality of the foregoing, no TA Member, no subsidiary of a TA Member and no TA personnel shall accept a monetary Gift in any amount or a nonmonetary Gift which exceeds \$50 per person. This prohibition shall not apply when advance or contemporaneous notice of a Gift or circumstances that might constitute a Gift and any relevant related facts are communicated, in the case of BearingPoint and BTI personnel, to the TA General Counsel, and, in the case of SS&D personnel, to the PMO for decision, and an approving written decision is made that acceptance will not impair the appearance or reality of TA integrity, impartiality, and independence.
7. No TA personnel (excluding secretaries, messengers, and other similar staff personnel) who were substantially involved with work on TA matters will serve in a business development capacity with respect to Nextel for a period of one year following the cessation of such person’s duties with the TA.

8. Each TA Member shall ensure that all of its TA personnel receive a copy, or are made aware, of the contents of this Code of Conduct.

9. Any subcontractor retained by the TA or by any TA Member shall be provided with a copy of this Code of Conduct and shall agree to be bound by it and to advise its employees of its requirements. For purposes of this Code of Conduct, (a) any such subcontractor shall be deemed to be a TA Member and (b) any of such subcontractor's personnel who work on TA matters shall be deemed to be TA personnel.

10. All TA Members and their personnel shall act to achieve and maintain, and shall refrain from acting to impair or prevent, the appearance and the reality of the integrity, independence, and impartiality of the TA in its decisionmaking and other actions.

11. Whenever any TA Member or TA personnel have any question about this Code of Conduct, they shall resolve doubts in favor of applying the Code of Conduct. BearingPoint and BTI and their personnel may also apply to the TA General Counsel for a determination of its applicability and requirements, and SS&D may apply to the PMO for such a determination.

12. Any conflict or apparent conflict between the Code of Conduct and the Independence Management Plan shall be resolved in favor of the Independence Management Plan. Similarly, any conflict or apparent conflict between the Code of Conduct and applicable rules or codes of professional ethics for attorneys shall be resolved in favor of such rules or codes of professional ethics.

ATTACHMENT B

List of Engaged Stakeholders

as of February 17, 2005

1. Nextel Operations, Inc., Nextel Communications, Inc. and Nextel Partners
2. Motorola, Inc
3. M/A-COM, Inc.
4. Motient, Inc.
5. Southern Linc
6. AIRPEAK Communications, LLC
7. Airtel Wireless Services, LLC
8. Colorado CallComm, Inc.
9. Preferred Communications Services

ATTACHMENT C

List of Restricted Stakeholders

as of February 17, 2005

1. Nextel Communications, Inc.
2. Motorola, Inc.
3. Motient, Inc.

Attachment 7

Transition Administrator Code of Conduct

TA Code of Conduct

This Code of Conduct is adopted pursuant to the Independence Management Plan of the 800 MHz Transition Administrator (“TA”) team of BearingPoint, Inc. (“BE”), Squire, Sanders & Dempsey L.L.P. (“SS&D”), and Baseline Telecom, Inc. (“BTI”) (each, a “TA Member,” collectively, the “TA Team” or the “TA Members”). Capitalized terms not otherwise defined have the same meanings as are set forth in the Independence Management Plan.

1. This Code of Conduct is applicable to the TA Members and to their respective partners, employees and contractors who work on TA matters or learn TA nonpublic information about TA decisionmaking (“TA personnel”).
2. As specified in the Independence Management Plan, each TA Member shall establish internal procedures to identify and resolve potential conflicts of interest concerning Engaged Stakeholders and to make disclosures.
3. Each TA Member shall maintain the confidentiality of nonpublic information received or generated by the TA.
4. Each TA Member shall instruct its TA personnel (a) to take reasonable steps to protect against the disclosure to persons not working on the Project, whether other employees of the TA Member or the public, of nonpublic information involving decisionmaking in the Project when making oral statements or when handling paper and computer documents and (b) not to communicate to personnel not in one of the TA Members any oral, written, or computer information that is nonpublic information involving decisionmaking in the Project.
5. No TA Member, no subsidiary of a TA Member, and no TA personnel who dedicate more than 25% of their working time to TA matters within any three consecutive calendar months shall have any financial ownership in any Restricted Stakeholder, excepting such interests as may be held indirectly through ownership of a mutual fund, a trust fund or other investment vehicle where investment decisions are made by someone other than the beneficial owners thereof. Any such ownership which exists at the time (a) a company is listed as a Restricted Stakeholder or (b) when a person becomes subject to this restriction shall be divested by the owner thereof within two months of the person learning of such listing or of becoming subject hereto, respectively.
6. No TA Member, no subsidiary of a TA Member and no TA personnel shall accept any gift, entertainment (including meals not associated with the conduct of the business of the TA) or other service or matter of value (“Gifts”) from any Engaged Stakeholder which could reasonably be interpreted as influencing, appearing to influence or potentially influencing the decisionmaking of the TA. Without limiting the generality of the foregoing, no TA Member, no subsidiary of a TA Member and no TA personnel shall accept a monetary Gift in any amount or a nonmonetary Gift which exceeds \$50 per person. This prohibition shall not apply when advance or contemporaneous notice of a Gift or circumstances that might constitute a Gift and any relevant related facts are communicated, in the case of BearingPoint and BTI personnel, to the TA General Counsel, and, in the case of SS&D personnel, to the PMO for decision, and an approving written decision is made that acceptance will not impair the appearance or reality of TA integrity, impartiality, and independence.
7. No TA personnel (excluding secretaries, messengers, and other similar staff personnel) who were substantially involved with work on TA matters will serve in a business development capacity with respect to Nextel for a period of one year following the cessation of such person’s duties with the TA.

8. Each TA Member shall ensure that all of its TA personnel receive a copy, or are made aware, of the contents of this Code of Conduct.

9. Any subcontractor retained by the TA or by any TA Member shall be provided with a copy of this Code of Conduct and shall agree to be bound by it and to advise its employees of its requirements. For purposes of this Code of Conduct, (a) any such subcontractor shall be deemed to be a TA Member and (b) any of such subcontractor's personnel who work on TA matters shall be deemed to be TA personnel.

10. All TA Members and their personnel shall act to achieve and maintain, and shall refrain from acting to impair or prevent, the appearance and the reality of the integrity, independence, and impartiality of the TA in its decisionmaking and other actions.

11. Whenever any TA Member or TA personnel have any question about this Code of Conduct, they shall resolve doubts in favor of applying the Code of Conduct. BearingPoint and BTI and their personnel may also apply to the TA General Counsel for a determination of its applicability and requirements, and SS&D may apply to the PMO for such a determination.

12. Any conflict or apparent conflict between the Code of Conduct and the Independence Management Plan shall be resolved in favor of the Independence Management Plan. Similarly, any conflict or apparent conflict between the Code of Conduct and applicable rules or codes of professional ethics for attorneys shall be resolved in favor of such rules or codes of professional ethics.